



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 20, 2011

Mr. Thomas Hardy
Chief Records Officer
University of Illinois
506 S. Wright St.
Urbana, IL 61801

RE: FOIA Request for Review – 2011 PAC 13861

Dear Mr. Hardy:

We have received and reviewed the written notice from the University of Illinois (University) of its intention to deny disclosure of certain information pursuant to section 7(1)(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(f) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010).

On April 21, 2011, [REDACTED] submitted a FOIA request seeking "copies of any minutes and/or draft guidelines or proposals from the advisory committee that was formed last year to examine the University of Illinois' policy of leasing its endowment farms via open-bids," including "any draft proposals under consideration for establishing lease rates for the endowment farms going forward." Electronic mail from [REDACTED] to Thomas Hardy, Chief Records Officer, University of Illinois (April 21, 2011).

The University responded to [REDACTED], indicating that there are 11 pages of responsive documents and notifying the Public Access Counselor of the University's intent to deny access to the records as exempt under section 7(1)(f). The University has asserted that the responsive records consist of predecisional documents used for discussion of strategies, plans, and directions for the University, documents in which opinions are expressed, and deliberations in which policies or actions are formulated.

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Section 7(1)(f) of FOIA exempts from disclosure:

[p]reliminary drafts, notes, recommendations, memoranda or other documents in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body.

The section 7(1)(f) exemption is intended to encourage government officials to openly and frankly discuss matters of governmental concern in order to make informed policy decisions. See *N.L.R.B. v. Sears*, 421 U.S. 132 (1975), *Hoffman v. Ill. Dept. of Corrections*, 158 Ill. App. 3d 473 (1st Dist. 1987). Section 7(1)(f) also exempts from disclosure documents produced by outside consulting firms hired to advise public bodies on a particular course of action. *Harwood v. McDonough*, 344 Ill. App. 3d 242, 248 (1st Dist. 2003). The Court in *Harwood* ruled that "as a matter of public policy, section 7(1)(f) exempts from disclosure predecisional materials used by a public body in its deliberative process." *Harwood*, 344 Ill. App. 3d at 247.

The Public Access Counselor's office has reviewed the documents supplied by the University and concludes that those documents consist of preliminary ideas outlining proposed strategies and recommendations for policy changes by the University. Additionally, there is no evidence that this information has been publicly cited and identified by the Board of Trustees. Based on this analysis, the University has met its initial burden under section 7(1)(f) to withhold the documents in question.

This letter will serve to close this matter. If you have any questions, please contact me at (217) 785-7438.

Very truly yours,


AMANDA M. LUNDEEN
Assistant Attorney General
Public Access Bureau

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